

Exhibit 33

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KENNETH J. TAGGART	:	CIVIL ACTION
Plaintiff	:	
v.	:	
	:	
COUNTY OF MONTGOMERY, et al.	:	NO. 12-CV-1913
Defendants	:	

ORDER

AND NOW, this 3rd day of January, 2013, upon consideration of plaintiff's
"Renewed/Amended Motion to Withdraw Complaint without Prejudice" (Dkt. 23) and the
response filed by the County of Montgomery and Prothonotary of Montgomery County (Dkt.
24), I HEREBY NOTE that this action against the County Defendants is DISMISSED
WITHOUT PREJUDICE pursuant to Federal Rule of Civil Procedure 41(a)(1) and the Clerk of
Court is directed to enter the dismissal on the docket.

BY THE COURT:

/s/ J. William Ditter, Jr.

J. WILLIAM DITTER, JR., J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KENNETH J. TAGGART . : CIVIL ACTION
:
v. :
:
COUNTY OF MONTGOMERY, et al. : NO. 12-1913

ORDER

AND NOW, this 12th day of September, 2012, upon consideration of the motion to dismiss filed by defendants Court of Common Pleas of Montgomery County and the Superior Court of Pennsylvania (“Judicial Defendants”) (Dkt. 14), it is HEREBY ORDERED that defendants’ motion is GRANTED and plaintiff’s claims are DISMISSED WITH PREJUDICE.

In connection with this order, I make the following findings:

1. Plaintiff, Kenneth J. Taggart, alleged that the Court of Common Pleas of Montgomery County and the Superior Court of Pennsylvania “violated [his] United States Constitutional Rights to Fair Trial and Due Process.” Plaintiff’s claims are based on the foreclosure of a property he owned in Montgomery county that is the subject of a number of other complaints he has filed in this district. *See Taggart v. GMAC Mortgage, LLC* (No. 12-415); *Taggart v. Franconia Township*. (No. 10-2725).

2. Plaintiff alleges that the Judicial Defendants showed a clear bias, that they “have not followed all rules, and have erroneously denied Taggart motion and appeals based on knowingly misleading opinions.” Am. Compl. ¶ 7; *see also* ¶23. He further alleges that the Court of Common Pleas was wrong to refuse an injunction and that the Superior Court erred in denying his appeal.

3. The Judicial Defendants moved to dismiss the claims against them based on sovereign immunity and alternatively assert that because they are a state entity and not a person they cannot be liable under § 1983.

4. The Eleventh Amendment bars a state citizen from pursuing claims against unconsenting states and state agencies in federal court. *Chilcott v. Erie County Domestic Relations*, 283 Fed. Appx. 8, 10 (3d Cir. 2008). Eleventh Amendment immunity applies to claims brought pursuant to 42 U.S.C. § 1983. *Id.* The Judicial Defendants are part of the Commonwealth's unified judicial system and are thus entitled to Eleventh Amendment Immunity. *See e.g., Benn v. First Judicial District*, 426 F.3d 233 (3d Cir. 2005) (finding the Judicial District was entitled to Eleventh Amendment immunity). Pennsylvania has not waived its sovereign immunity (42 Pa. C.S. § 8521) and it has not consented to suit. The Judicial Defendants are therefore immune and must be dismissed.

5. Even if the Eleventh Amendment did not bar plaintiff's claims against the Judicial Defendants, plaintiff's claim fails because he cannot sue state entities under § 1983. *See Callahan v. City of Philadelphia*, 207 F. 3d 668, 672 (3d Cir. 2000) (finding state government entities, such as the courts and agencies of the unified judicial system, do not constitute "persons" under 42 U.S.C. § 1983).

BY THE COURT:

/s/ J. William Ditter, Jr.
J. WILLIAM DITTER, JR., J.

IN THE UNITED STATES DISTRICT COURT
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KENNETH J. TAGGART	:	CIVIL ACTION
Plaintiff	:	
v.	:	
	:	
COUNTY OF MONTGOMERY, et al.	:	NO. 12-CV-1913
Defendants	:	

ORDER

AND NOW, this 3rd day of January, 2013, IT IS HEREBY ORDERED that this action against Mortgage Electronic Registration Systems Incorporated & MERSCORP ("MERS") is DISMISSED WITHOUT PREJUDICE for plaintiff's failure to make service in accordance with Rule 4(m) of the Federal Rules of Civil Procedure.¹

If, within 10 days of this order, plaintiff files a certificate of service as to defendant MERS, this dismissal will be vacated.

BY THE COURT:

/s/ J. William Ditter, Jr.

J. WILLIAM DITTER, JR., J.

¹ Plaintiff has failed to provide this court with proof of service and MERS has not filed any responsive pleadings in this matter. Absent proof of service and because more than 120 days have passed since plaintiff filed his amended complaint, I am dismissing the action against MERS without prejudice.